



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

August 18, 2008

BY FAX

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
United States Courthouse
500 Pearl Street, Room 510
New York, New York 10007-1312

Re: Frank Menschel v. Astrue
07 Civ. 5629 (PAC) (GWG)

Dear Judge Gorenstein:

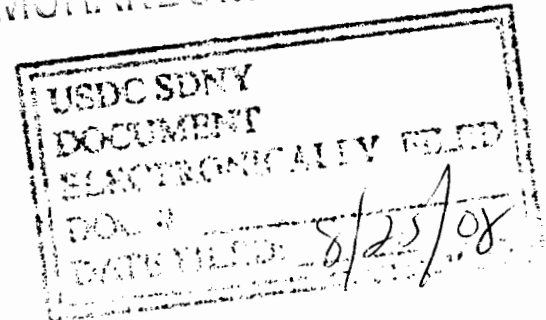
This Office represents the Commissioner of Social Security (the "Agency"), defendant in this action. I write respectfully to advise the Court of recent events.

Pursuant to the Court's order of June 27, 2008, defendant's reply is due today, August 18, 2008. In Plaintiff's Memorandum of Law opposing defendant's motion for judgment on the pleadings, plaintiff asserted that a page from the administrative record in this case was missing. Based upon this assertion, I requested that the Agency ascertain whether any such document was missing from the administrative record that was supplied to this Office and, if so, provide this Office with a copy. This morning, I received a copy of the missing document. As a result, a supplemental transcript must be prepared for filing with the Court.

In addition, in light of this document, the Agency is reconsidering its position in this case. In order for these processes to be completed, I request a three-week extension of time in which to file defendant's reply brief, to September 8, 2008.

This is the Government's second request for an extension of the briefing schedule. I have attempted to contact plaintiff to obtain his consent to this request, but he has not yet returned my call.

MEMORANDUM FOR THE COURT



Granted
SO ORDERED: DATE: 8/25/08
GABRIEL W. GORENSTEIN
UNITED STATES MAGISTRATE JUDGE

I apologize for any inconvenience the timing of this request causes the Court. Thank you for your consideration of this matter.

Respectfully,

MICHAEL J. GARCIA
United States Attorney

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cc: Frank Menschel, Pro Se